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PTO/SB/21 (08-00)

Approved for use through 10/31/02. OMB 0851-0031

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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

|  |                      |
|--|----------------------|
| Application Number                       | 10/017,327           |
| Filing Date                              | December 6, 2001     |
| First Named Inventor                     | Charles A. Nicolette |
| Group Art Unit                           | 1645                 |
| Examiner Name                            | Not Yet Assigned     |
| Attorney Docket No.                      | GZ 2101.20           |
| Total Number Of Pages In This Submission | 7                    |

**ENCLOSURES (check all that apply)**

|   |  |   |
|---|--|---|
| <input type="checkbox"/> Fee Transmittal Form                                     | <input type="checkbox"/> Assignment Papers<br>(for an Application)                         | <input type="checkbox"/> After Allowance Communication to Group                               |
| <input type="checkbox"/> Fee Attached   | <input type="checkbox"/> Drawing(s)  | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences           |
| <input type="checkbox"/> Amendment / Reply  | <input type="checkbox"/> Licensing-related Papers  | <input type="checkbox"/> Appeal Communication to Group<br>(Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final  | <input type="checkbox"/> Petition  | <input type="checkbox"/> Proprietary Information  |
| <input type="checkbox"/> Affidavits/declarations                                  | <input type="checkbox"/> Petition to Convert to a Provisional Application                  | <input type="checkbox"/> Status Letter  |
| <input type="checkbox"/> Extension of Time Request                                | <input type="checkbox"/> Power of Attorney, Revocation<br>Change of Correspondence Address | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):               |
| <input type="checkbox"/> Express Abandonment Request                              | <input type="checkbox"/> Terminal Disclaimer   | Form PTO 1449 (2 pgs)   |
| <input checked="" type="checkbox"/> Supplemental Information Disclosure Statement | <input type="checkbox"/> Request for Refund  |   |
| <input type="checkbox"/> Certified Copy of Priority Document(s)                   | <input type="checkbox"/> CD, Number of CD(s) _____   |   |
| <input type="checkbox"/> Response to Missing Parts/<br>Incomplete Application     | Remarks  |   |
| <input type="checkbox"/> Response to Missing Parts<br>under 37 CFR 1.52 or 1.53   |  |   |

**SIGNATURE OF APPLICANT, ATTORNEY OR AGENT**

|                               |  |
|-------------------------------|--|
| Firm<br>or<br>Individual Name | Antoinette F. Konski<br>Bingham McCutchen LLP<br>Three Embarcadero Center, Suite 1800<br>San Francisco, California 94111 |
| Signature                     | <i>Antoinette F. Konski</i>  |
| Date                          | Feb. 19, 2003  |

**CERTIFICATE OF FACSIMILE**

[X] Pursuant to 37 C.F.R. § 1.6(d), I hereby certify that this paper and all enclosures are being sent via facsimile on the date indicated below to the attention of Group Art Unit 1645 at Facsimile No. (703) 872-8308

February 19, 2003

*Peggy Nichols*

Peggy Nichols

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C:\Documents and Settings\j62\Desktop\Transmittal (General).doc

PATENT  
Docket No. GZ 2101.20  
GZ Ref. 5028USp1

## CERTIFICATE OF FACSIMILE

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Group Art Unit 1645 at Facsimile No. (703) 872-9306

Dated: February 19, 2003Peggy Nichols  
Peggy Nichols

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for:

Charles A. NICOLETTE

Serial No.: 10/017,327

Filing Date: December 6, 2001

For: COMPOUNDS FOR THERAPY AND  
DIAGNOSIS AND METHODS FOR  
USING SAME

Examiner: Not Yet Assigned

Group Art Unit: 1645

Commissioner for Patents  
Washington, D.C. 20231

## SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Sir:

In accordance with 37 C.F.R. § 1.56, the references listed on the attached forms PTO-1449a and PTO-1449b are being brought to the attention of the Examiner for consideration in connection with the examination of the above-identified patent application. The Examiner is requested to make these documents of record.

## I. Timing of the Information Disclosure Statement

This Information Disclosure Statement is submitted:

☐ With the new patent application submitted herewith (37 C.F.R. § 1.97(a)).

- ☒ Within three months of the application filing date or before receipt of a first Office Action on the merits; accordingly, no fee or separate requirements are required.
- ☐ Before the mailing date of the first Office Action on the merits. In the event, however that an Office Action has crossed in the mail with this Information Disclosure Statement, the Commissioner is hereby authorized to charge Deposit Account No. 50-1189 for any fees required pursuant to 37 C.F.R. §§ 1.17(p) or 1.17(i)(1).
- ☐ After receipt of a first Office Action on the merits but before a final Office Action or Notice of Allowance. A fee is required. The Commissioner is hereby authorized to charge Deposit Account No. 50-1189 for any fees required pursuant to 37 C.F.R. §§ 1.17(p) or 1.17(i)(1).
- ☐ After receipt of a final Office Action or Notice of Allowance, but before payment of the issue fee. Accordingly, a Certification under 37 C.F.R. § 1.97(e) is provided herein. The Commissioner is hereby authorized to charge Deposit Account No. 50-1189 for any fees required pursuant to 37 C.F.R. §§ 1.17(p) or 1.17(i)(1).

The undersigned certifies that:

- ☐ Each item of information contained in the Information Disclosure Statement was first cited in any communication mailed from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this information disclosure statement.
- ☐ No item of information contained in this information disclosure statement was cited in a communication mailed from a foreign patent office in a counterpart foreign application or, to the knowledge of the undersigned after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

## II. Copies of the Cited Items:

- ☐ Copies of all of the items listed on the attached Form PTO-1449 are enclosed.

- ☐ Copies of only the following items listed on the attached Form PTO-1449 are enclosed: \_\_\_\_\_.
- ☒ Copies of all items listed on the attached Forms PTO-1449a and 1449b are not supplied because they were previously cited by or submitted to the Patent Office in related application, U.S. Serial No. 08/870,216 for which the subject application claims the benefit of under 35 U.S.C. § 120.
- ☐ Copies of those items which are marked with an asterisk (\*\*) in the attached Form PTO-1499 were cited in a foreign examination report in a related case. A copy of the search report and the cited references not already of record in this application are attached hereto.

### III. Concise Explanation of Relevance:

A concise explanation of relevance of the items listed on Form PTO-1449 is not given.

- ☐ A concise explanation of relevance of [some of] the items listed on Form PTO-1449 is in the form of an English language copy of a Search Report from a foreign patent office, issued in a counterpart application, which refers to the relevant portions of the references (copy attached).

### IV. Conclusion:

Citation of the above documents shall not be construed as:

1. an admission that the documents are necessarily prior art with respect to the instant invention;
2. a representation that a search has been made, other than as described above; or
3. an admission that the information cited herein is, or is considered to be, material to patentability as defined in § 1.56(b).

It is respectfully requested that the Examiner indicate consideration of the cited references by returning a copy of the attached form PTO 1449 with initials or other appropriate marks.

The Commissioner is hereby authorized to charge Deposit Account No. 50-2518, Attorney Billing Ref. 19442-7247 for any additional fees required in connection with the filing of this Information Disclosure Statement.

Respectfully submitted,

Dated:

Feb. 19, 2003

By:

Antoinette F. Konski

Antoinette F. Konski

Registration No. 34,202

Bingham McCutchen LLP (formerly McCutchen Doyle Brown & Enersen LLP)  
Three Embarcadero Center, Suite 1800  
San Francisco, California 94111-4067  
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PTO/SB/08B (10-01)

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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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Substitute for form 1449B-PTO

**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

(use as many sheets as necessary)

Sheet 1 of 1

**Complete if Known**

|                        |                  |
|------------------------|------------------|
| Application Number     | 10/017,327       |
| Filing Date            | December 6, 2001 |
| First Named Inventor   | Nicolette        |
| Art Unit               | 1645             |
| Examiner Name          | Unassigned       |
| Attorney Docket Number | GZ 2101.20       |

**OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS**

| Examiner Initials* | Cita No. <sup>1</sup> | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate); title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher city and/or country where published | T <sup>2</sup> |
|--------------------|-----------------------|---|----------------|
|                    | 1                     | PINCHEIRA R. ET AL.: "Identification of a 170-kDa protein over-expressed in lung cancers." BRITISH JOURNAL OF CANCER (2001) 84(11):1520-1527.   |                |
|                    | 2                     | ROTHER MARCUS ET AL.: "Eukaryotic initiation factor 3 p110 mRNA is overexpressed in testicular seminomas." AMERICAN JOURNAL OF PATHOLOGY (2001) 157(5):1597-1604.   |                |
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Examiner's  
SignatureDate  
Considered

\* EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> Applicant is to place a check mark here if English language Translation is attached.

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52102989; 1/2019442-2194427247

PTO/SB/08A (10-01)

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Substitute for form 1449A-PTO

**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

(use as many sheets as necessary)

Sheet 1 of 1

**Complete if Known**

|                        |                  |
|------------------------|------------------|
| Application Number     | 10/017,327       |
| Filing Date            | December 6, 2001 |
| First Named Inventor   | Nicolette        |
| Art. Unit              | 1645             |
| Examiner Name          | Unassigned       |
| Attorney Docket Number | GZ 2101.20       |

**U.S. PATENT DOCUMENTS**

| Examiner Initials* | Cite No. <sup>1</sup> | Document Number<br>Number - Kind Code <sup>2</sup> (if known) | Publication Date<br>MM-DD-YY | Name of Patentee or<br>Application of Cited Document | Pages, Columns, Lines,<br>Where Relevant Passages or<br>Relevant Figures Appear |
|--------------------|-----------------------|---|------------------------------|--|---|
|                    | 1                     | US-   |                              |  |   |
|                    | 2                     | US-   |                              |  |   |
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|                    | 5                     | US-   |                              |  |   |
|                    | 6                     | US-   |                              |  |   |
|                    | 7                     | US-   |                              |  |   |

**FOREIGN PATENT DOCUMENTS**

| Examiner Initials* | Cite No. <sup>1</sup> | Foreign Patent Document<br>Country Code <sup>3</sup> - Number <sup>4</sup> - Kind Code <sup>5</sup> (if known) | Publication Date<br>MM-DD-YY | Name of Patentee or<br>Application of Cited Document | Pages, Columns, Lines,<br>Where Relevant Passages<br>or Relevant Figures Appear | T <sup>6</sup> |
|--------------------|-----------------------|--|------------------------------|--|---|----------------|
|                    | 8                     | WO 00/36144 A  | 06-22-00                     | Jorma  | Entire doc.   |                |
|                    | 9                     | WO 01/92307 A  | 12-08-01                     | Genzyme  | Entire doc.   |                |
|                    | 10                    |  |                              |  |   |                |
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|                    | 20                    |  |                              |  |   |                |

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SignatureDate  
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\* EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 809. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kind Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 801.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language translation is attached.

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BINGHAM McCUTCHEN

## Facsimile

DATE February 19, 2003

| NAME                   | FAX            | PHONE |
|------------------------|----------------|-------|
| TO Group Art Unit 1645 | (703) 872-9306 |       |

|                               |                |                |
|-------------------------------|----------------|----------------|
| FROM Antoinette E. Konski     | (650) 849-4800 | (650) 849-4950 |
| antoinette.konski@bingham.com |                |                |

PAGES (INCLUDING THIS COVER PAGE) 8  
Application Serial No. 10/017,327

RE Supplemental Information Disclosure Statement w/Form PTO 1449

Message:

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